

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

REMARKS

Claims 1-13, 15-28, and 30-33 stand in this application. Claims 1, 12, 15, 20, 22, 27, 30, and 32 are amended. Claims 14 and 29 are cancelled. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

At page of the Office Action claims 22-33 stand rejected under 35 U.S.C. § 101 because, according to the Office Action, they are directed to non-statutory subject matter. Applicant traverses the rejection. Applicant respectfully submits that claims 22-33 as originally presented are directed to statutory subject matter. Nevertheless, Applicant has amended claims 22-33 to recite "computer readable storage medium." Accordingly, Applicant respectfully requests withdrawal of the § 101 rejection with respect to these claims.

At page 3 of the Office Action claims 1-4, 6-8, 11, 13-16, 18, 19-24, and 28-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number (USPN) 5,940,504 (Griswold) in view of United States Patent Number (USPN) 6,330,670 (England). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Although Applicant disagrees with the broad ground of rejections stated in the Office Action, Applicant has amended claims 1, 12, 15, 20, 22, 27, 30, and 32 to further advance prosecution on the merits. Although Applicant believes that claims 1, 12, 15, 20, 22, 27, 30, and 32 are patentable and non-obvious as previously presented, Applicant has amended these claims to further clarify at least one of the patentable features of the

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

claimed subject matter. Applicant submits that the amendments merely clarify, either expressly or impliedly, what was already present in the claims.

Claims 14 and 29 are cancelled. Therefore, the rejection with respect to these claims is moot.

Claims 1-4, 6-8, 11, 13, 15, 16, 18, 19-24, 28, and 20-33 are patentable and non-obvious over the Griswold reference in view of the England reference, whether taken alone or in combination, because the cited references fail to disclose all the language recited in claims 1-4, 6-8, 11, 13, 15, 16, 18, 19-24, 28, and 20-33. For example, claim 1 recites:

determining whether a monitored program is authorized to execute for a time interval;

sending said time interval to said monitored program;

measuring a usage time for said monitored program using said time interval.

The Griswold reference and the England reference, taken alone or in combination, fail to disclose, teach, or suggest at least this language of claim 1.

The Griswold reference fails to disclose all the recited language of claim 1. As correctly stated in the Office Action, the Griswold reference fails to disclose "sending a time interval to said monitored program," as recited in claim 1. (Office Action, Page 3.)

Applicant submits that claim 1, as amended, is further distinguished from the Griswold reference because the Griswold reference fails to disclose, teach, or suggest "determining whether a monitored program is authorized to execute for a time interval."

Applicant submits that the Griswold reference merely discloses sending a request

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

datagram to the Licensor to determine whether a licensed product is authorized to execute. (Col. 4, Lines 34-40.) At the given cite, the Griswold reference states:

After a request datagram has been sent out, a user may be permitted to use the licensed product for a limited duration. This feature may be necessary because of the delays in network communications. When networks are sufficiently fast, use of a licensed product can be postponed until the reply datagram is received.

At the given cite, the Griswold reference merely refers to permitting usage of the licensed product for a limited duration to account for network delays. In fact, the reference further states that when networks are sufficiently fast, the use of a licensed product can be postponed until the reply datagram is received. Thus, this citation fails to support the conclusion that the Griswold reference teaches “determining whether a monitored program is authorized to execute for a time interval,” as recited in amended claim 1. The “limited duration” disclosed by the Griswold reference is not the same as the “time interval” in which the “monitored program is authorized to execute for,” as recited in amended claim 1.

Although the Griswold reference teaches “Send Date & Time” and a “Send Interval,” these variables or quantities are not the same as a “time interval” in which the “a monitored program is authorized to execute for,” as recited in amended claim 1. Rather, the “Send Date & Time” is the date and time when the last datagram was sent to the licensee’s site. (Col. 6, lines 11-12.) Further, the “Send Interval” specifies a time interval between each new datagram transmission from the licensee to the licensor. (Col. 6, lines 16-18.) Accordingly, neither the “Send Date & Time” nor the “Send Interval”

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

can be considered to teach or suggest a "time interval" in which the "a monitored program is authorized to execute for," as recited in amended claim 1.

Therefore, because the Griswold reference fails to disclose, teach, or suggest "determining whether a monitored program is authorized to execute for a time interval" and "sending said time interval to said monitored program," the reference inherently fails to disclose, teach, or suggest "measuring a usage time for said monitored program using said time interval," as recited in amended claim 1.

The combination of the England reference with the Griswold reference fails to overcome the limitations of the Griswold reference alone because the England reference also fails to disclose, teach, or suggest all the language recited in claim 1 as discussed above. According to the Office Action, the missing language of claim 1 that is not disclosed by the Griswold reference is taught by the England reference at col. 19, lines 45-53, col. 20 lines 1-13, and Fig. 11. Applicant respectfully disagrees. At col. 19, lines 45-53, the England reference states:

The content license (FIG. 11) imposes additional restrictions on what kind of processing can be performed on the content once an application has access to the content. As described briefly above, the license data structure 1100 can limit the number of times the content can be accessed (usage counter 1101), determine what use can be made of the content (derivation rights 1103), such as extracting still shots from a video, or building an endless loop recording from an audio file, or a time-based expiration counter 1105.

At this cite, the England reference fails to disclose, teach, or suggest "determining whether a monitored program is authorized to execute for a time interval" and "sending said time interval to said monitored program." Hence, the England reference also fails to

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

disclose, teach, or suggest "measuring a usage time for said monitored program using said time interval," as recited in amended claim 1. Furthermore, at col. 20, lines 2-13, in relevant part, the England reference states:

In an alternate embodiment, the original content provider downloads a sublicense along with the content and that sublicense is re-distributed by the trusted application when it re-distributes the content. The sublicense is structurally identical to the license data structure 1100 although the content of the fields differs.... The license 1100 is stored with the content on secured storage. In one embodiment, the required properties ACL 1000 is also stored with the license 1100 and the content

Again, at the given cite, the England reference fails to disclose, teach, or suggest "determining whether a monitored program is authorized to execute for a time interval" and "sending said time interval to said monitored program." Hence, the England reference also fails to disclose, teach, or suggest "measuring a usage time for said monitored program using said time interval," as recited in amended claim 1.

Consequently, Applicant respectfully submits that claim 1 is patentable and non-obvious over the Griswold reference in view of the England reference because the cited references, taken alone or in combination, fail to disclose, teach, or suggest all the language recited in claim 1 and claims 2-4, 6-8, and 11 that directly or indirectly depend therefrom.

Claims 15, 20, 22, 30, and 33 are amended in a manner similar to claim 1. Therefore, at least for reasons analogous to those discussed above with respect claim 1, Applicant respectfully submits that claims 15, 20, 22, 30, and 33 are non-obvious and patentable over the cited references whether taken alone or in combination. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to claims 15, 20,

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

22, 30, and 33 and the claims which depend directly or indirectly therefrom (e.g., claims 16, 18, 19, 21-24, 28, 29, 31, and 32).

At page 4 of the Office Action claims 5 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of England and further in view of USPN 5,291,596 (Mita). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Claims 5 and 17 are patentable and non-obvious over the Griswold reference in view of the England reference and the Mita reference, whether taken alone or in combination, because the cited references fail to disclose, teach, or suggest all the language recited in claims 5 and 17. Furthermore, claims 5 and 17 depend from claims 1 and 15, respectively. The Griswold reference and the England reference fail to disclose, teach, or suggest the missing language of claims 1 and 15 as previously discussed. The Mita reference also fails to disclose, teach, or suggest the missing language of claims 1 and 15. Therefore claims 5 and 17 represent patentable subject matter over the cited references for at least the same reasons given for claims 1 and 15. Moreover, claims 5 and 17 are dependent claims and therefore contain additional features that further distinguish these claims from the cited references. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to these claims.

At page 5 of the Office Action claims 9, 10, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of England and USPN 2001/0052013 (Munguia). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

Claims 9, 10, 25, and 26 are patentable and non-obvious over the Griswold reference in view of the England reference and the Munguia reference, whether taken alone or in combination, since the cited references fail to disclose, teach, or suggest all the language recited in claims 9, 10, 25, and 26. Claims 9, 10, 25, and 26 depend from claims 1 or 22. The Griswold reference and the England reference fail to disclose, teach, or suggest the missing language of claims 1 and 22 as previously discussed. The Munguia reference also fails to disclose, teach, or suggest the missing language of claims 1 and 22. Therefore claims 9, 10, 25, and 26 represent patentable subject matter over the cited references for at least the same reasons given for claims 1 and 22. Furthermore, claims 9, 10, 25 and 26 are dependent claims and therefore contain additional features that further distinguish these claims from the cited references. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to these claims.

At page 5 of the Office Action claims 12 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of JP 10320070A. Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicants amended claims 12 and 27 to include features similar to those discussed above with respect to claim 1. Accordingly, for reasons analogous to those discussed above with respect to claim, Applicants respectfully submit that claims 12 and 27 are patentable and non-obvious in of the Griswold reference. The combination of the JP 10320070A reference fails to overcome the limitations of the Griswold reference. Therefore, Applicants respectfully submit that claims 12 and 27 are non-obvious and patentable over the Griswold reference in view of the JP 10320070A reference, because

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

these references, whether taken alone or in combination, fail to disclose, teach, or suggest each and every element recited in claims 12 and 27. Therefore, Applicants respectfully request the withdrawal of the obviousness rejection with respect thereto.

For at least the above reasons, Applicants submit that claims 1-13, 15-28, and 30-33 recite novel features not shown by the cited references. Further, Applicants submit that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicants submit that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

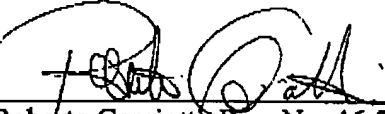
It is believed that claims 1-13, 15-28, and 30-33 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Appl. No. 09/804,673
Response Dated January 20, 2006
Reply to Office Action of October 19, 2005

The Examiner is invited to contact the undersigned at 724-933-5529 to discuss
any matter concerning this application.

Respectfully submitted,

KACVINSKY LLC


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Under 37 CFR 1.34(a)

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CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8A)

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Deborah L. Higham

1/20/06
Date